



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

MAY - 6 2014

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply to: OCE-127

Certified Mail Number Return Receipt Requested

Frank T. Begley
Judith R. Begley
B & B Electric
460 Droz Drive
Fairbanks, Alaska 99701-3285

Re: **Notice of Violation**
B & B Electric

Dear Mr. and Mrs. Begley:

This Notice of Violation (NOV) is to inform you of violations of the Resource Conservation and Recovery Act (RCRA). These violations were identified based on information provided to EPA in August 2013 by Denali National Park Ranger John Fish.

In August 2013, a contractor that worked for the Denali National Park (Park) discovered a cardboard box in a Park dumpster. The mailing label on the cardboard box indicated the box had been mailed to B & B Electric, located at 3650 MacArthur Street, Fairbanks, Alaska (see attached photo). From the mailing label, it appears that the box was one of six such boxes sent to B & B Electric. The label also included the warning "Keep away from moisture."

When the box was opened, it was found to contain many small plastic bottles. The labels on the bottles indicated each bottle contained Organic Peroxide Type D, Solid (Dibenzoyl Peroxide, 50 percent). The contents of the plastic bottles appeared to be consistent with the description of dibenzoyl peroxide found in the NIOSH Pocket Guide to Chemical Hazardous, "colorless to white crystals or granular powder."

The discarded box of Organic Peroxide Type D, Solid (Dibenzoyl Peroxide, 50 percent) was found, abandoned, in the Park dumpster and therefore the box and its contents are a solid waste as defined in 40 C.F.R. § 261.2.

The regulations found at 40 C.F.R. § 262.11 require a generator of solid waste to determine if the solid waste is a hazardous waste by following certain steps. Based on those steps, EPA has determined that dibenzoyl peroxide is an ignitable hazardous waste, characterized as D001.

EPA defines D001 in 40 C.F.R. § 261.21(a)(4) as a substance that yields oxygen readily to stimulate the combustion of organic matter. EPA clarified this definition in Note 4 of 40 C.F.R. § 261.21 saying that organic peroxides (which are currently defined by DOT as Hazard Class 5.2 in 49 C.F.R. § 173.128) are a type of oxidizer and therefore will be identified as D001 when they become wastes. The labels on the

0322 05300 X4A
Hx1012
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plastic containers in the box indicate that the contents of each container is a DOT Hazards Class 5.2 substance.

Mr. Fish estimated that the combined weight of the contents of the plastic bottles was approximately 233 grams (or ½ pound).

A generator of hazardous waste is a conditionally exempt small quantity generator when he generates less than 100 kilograms (220 pounds) of hazardous waste in a month (see 40 C.F.R. § 261.5). In order for the hazardous waste generated by a conditionally exempt small quantity generator to be excluded from full regulation, the generator must comply with, among other things, the following requirements: 40 C.F.R. § 262.11 and 40 C.F.R. § 261.5(g)(3), as explained below.

Violation 1 – Failure to make a hazardous waste determination

The regulation at 40 C.F.R. § 262.11 states that a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste by following certain procedures.

The cardboard box with plastic containers of dibenzoyl peroxide was found in a dumpster. Dibenzoyl peroxide that is discarded is characteristic hazardous waste D001. No documentation, labels, marking or other records were found on or with the cardboard box that would indicate a hazardous waste determination was made as required by 40 C.F.R. § 262.11.

Violation 2 – Failure to ensure disposal at an off-site treatment, storage, or disposal facility

The regulation at 40 C.F.R. § 261.5(g)(3) states that a conditionally exempt small quantity generator may either treat or dispose of his hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which meet certain permitting, licensing, or registration criteria.

The cardboard box that held plastic containers of dibenzoyl peroxide, hazardous waste D001, was found in a dumpster in the Park. Because the cardboard box was not under the control of B & B Electric when it was placed in the dumpster, B & B Electric could not ensure the delivery of the hazardous waste in the cardboard box to any of the allowed treatment, storage, or disposal facilities described in 40 C.F.R. § 261.5(g)(3).

Required Actions

Because you failed to comply with the requirements for a conditionally exempt generator found in 40 C.F.R. § 261.5, the roughly ½ pound of waste dibenzoyl peroxide found in the dumpster at the Park is now subject to full regulation. You must complete these actions within ninety (90) days of the receipt of this NOV.

The box of dibenzoyl peroxide waste that was found in the dumpster at Denali National Park is being held at the Park Ranger's office in Denali National Park. You may contact Ranger Sharon Olson at 907-683-9523 to make arrangements to obtain the box and its contents in order to comply with this NOV.

1. Obtain an EPA identification number pursuant to 40 C.F.R. § 262.12(a) and (b).

An EPA identification number may be obtained by filling out the enclosed EPA form 8700-12 and sending it to:

Ted Enderle
U.S. Environmental Protection Agency, AWT-122
1200 6th Avenue, Suite 900
Seattle, WA 98101

Mr. Enderle may be reached by telephone at 206-553-6703 or by e-mail at enderle.ted@epa.gov.

In filling out Form 8700-12, please use the address associated with B & B Electric not that of the Denali National Park.

2. Arrange for the transportation of the dibenzoyl peroxide hazardous waste by a commercial hazardous waste transporter that has also obtained an EPA identification number for the transportation of hazardous waste, as required by 40 C.F.R. § 262.12(c). The dibenzoyl peroxide must be taken to a commercial hazardous waste treatment, storage and disposal facility.
3. Transportation of the hazardous waste must be tracked and documented on a hazardous waste manifest in compliance with all applicable regulations found in 40 C.F.R. Part 262 Subpart B, specifically § 262.20(a),(b),(c),(d), § 262.23, and § 262.27.
4. Comply with the pre-transport requirements found in 40 C.F.R. §§ 262.30, 262.31, 262.32, and 262.33.
5. Before the waste is land disposed, you must ensure that the waste is treated to meet the land disposal restriction requirements by complying with the regulations found in 40 C.F.R. § 268.7.
6. You must also comply with the record keeping requirements found at 40 C.F.R. §§ 262.40 and 262.42.

The above violations may subject B & B Electric to enforcement action under Section 3008 of RCRA, including the assessment of civil penalties of up to \$37,500 per violation. Within ninety (90) days of receipt of this NOV, EPA requests that you submit a written response that identifies all actions you have taken to correct the violations. This response shall include copies of the manifest and the returned manifest and all associated documentation and may include photographs if you believe they are helpful.

A link to the regulations cited in this NOV may be found at:

<http://www.gpo.gov/fdsys/pkg/CFR-2012-title40-vol27/xml/CFR-2012-title40-vol27-part262.xml>

Please send all material submitted in response to this NOV to Cheryl Williams by email at williams.cheryl@epa.gov, or:

Cheryl Williams, Air-RCRA Compliance Unit
U. S. Environmental Protection Agency, OCE-127
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

EPA Reservation of Rights

Notwithstanding this NOV or your response, EPA reserves the right to take any action pursuant to RCRA, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), or any other applicable legal authority, including without limitation, the right to seek injunctive relief, implementation of response actions or corrective measures, cost recovery, monetary penalties, and punitive damages. Your response to this NOV does not constitute compliance with RCRA.

Nothing in this NOV or your response shall affect your duties, obligations, or responsibilities with respect to this waste under local, state, or federal law or regulation.

Thank you for your prompt attention to this important matter. If you have questions regarding this NOV, please contact Cheryl Williams or my staff at 206-553-2137.

Sincerely,



Edward J. Kowalski
Director

Enclosures

1. Photo of cardboard box label and containers of dibenzoyl peroxide
2. EPA Form 8700-12 and Instructions

cc: Sharon Olson, Ranger LE,
Denali National Park

Ship Name: ORGANIC
(DIBEN

Un# 3106

Class: 5.2

PKG. GRP. II

QTY: 33g

ORGANIC PEROXIDE
DIBENZOYL PEROXIDE



IC PEROXIDE Type D,
ZOYL PEROXIDE, =50%



OXIDE Type D,
PEROXIDE, =50%



INTERNATIONAL ROAD DYNAMICS
710-43RD STREET EAST
SASKATOON, SK CA S7K3T9

From : LaFrentz – Acheson, AB

**Ship : B&B Electric
3650 MacArthur
Fairbanks, Alaska**

